



**Uniform Law Commission**  
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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Hon. John J. Walsh  
Chairman  
House Judiciary Committee  
124 North Capitol Avenue  
P.O. Box 30014  
Lansing, MI 48909-7514

RE: In Support of SB707-The Uniform Interstate Depositions and Discovery Act

Dear Chairman Walsh:

I write on behalf of the Uniform Law Commission (ULC) to urge favorable action on SB707, the Uniform Interstate Deposition and Discovery Act (UIDDA). The UIDDA would allow the subpoena of out-of-state witnesses with a minimum of judicial intervention and increased efficiency. The UIDDA parallels the procedures currently used in federal courts under Rule 45 of the Federal Rules of Civil Procedure and many courts, judges, and lawyers are familiar with the concepts contained in the bill.

The UIDDA was approved by the Uniform Law Commission in the summer of 2007. To date, 28 states have adopted the UIDDA either through statute or by court rule. In the coming year, continued widespread enactment is expected, a testament to acceptance of the act as well as the desire to improve upon civil procedure across the country in a manner that lowers costs of litigation and removes burdens from already overburdened court dockets.

The Uniform Law Commission is not unfamiliar with drafting legislation to aid states deal with issues of interstate depositions and discovery. The first attempt at a uniform act occurred in 1920

with adoption of the Uniform Foreign Depositions Act. This act was adopted in 13 states. During the time between 1920 and 1962, many states drafted their own legislation to address the problems presented by interstate depositions, specifically how to depose an out-of-state deponent. In 1962, the Uniform Law Commission drafted a new act to harmonize the laws that developed in the 40 years following the Uniform Foreign Depositions Act. The Uniform Interstate and International Procedure Act was adopted by 4 states, the U.S. Virgin Islands, and the District of Columbia.

The UIDDA is simple and efficient. It establishes a simple clerical procedure under which a trial state subpoena may be reissued as a discovery state subpoena. Under the act, the out-of-state subpoena will be presented to the Clerk of the Court in Michigan. Upon presentation of the out-of-state subpoena, the Clerk will issue a Michigan subpoena that incorporates the terms of the out-of-state subpoena. This action does not constitute an appearance in the court, but is sufficient to invoke jurisdiction over the deponent.

The UIDDA minimizes judicial oversight, eliminating the need for obtaining a commission, letters rogatory, filing a miscellaneous action, or other preliminary steps before obtaining a subpoena in the discovery state. Removing judicial involvement with a ministerial process conserves judicial resources and keeps costs low for all parties involved. The act protects residents of the Michigan from unreasonable and burdensome discovery requests. Under the act, motions brought to enforce, quash, or modify a subpoena, or for protective orders, must be brought in the Michigan courts and are governed by the discovery rules of this state.

The drafting committee for the UIDDA benefited from the participation of observers from the American Association for Justice, the Association of Trial Lawyers of America, and the Federation of Defense and Insurance Counsel, all with significant experience with the issues related to interstate depositions. Many practitioners welcome the procedural changes contained within the UIDDA, as it will improve their practice and improve management of discovery requests. Because the UIDDA parallels Federal Rule of Civil Procedure 45, many lawyers familiar with the federal rules and will easily incorporate the UIDDA into their practice.

Adding to the many endorsements of the UIDDA, the Conference of Chief Justices issued a resolution in August 2009 recognizing that the UIDDA provides an efficient and cost-effective procedure for litigants to depose out-of-state individuals and seek production of discoverable materials that may be located out of state.

In sum, the UIDDA is efficient, simple, and minimizes the need for court involvement in the discovery process. I urge the Committee to act favorably on this Act.

Respectfully Submitted,



Senior Legislative Counsel